

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

VICKIE ANN DEAN,	)	
	)	
Petitioner,	)	2:08-cv-00312 JWS
	)	
vs.	)	
	)	ORDER FROM CHAMBERS
CHARLES L. RYAN, et al,	)	
	)	[Re: Report at docket 15]
Respondents.	)	
	)	

**I. MOTION PRESENTED**

Pursuant to 28 U.S.C. § 2254, petitioner seeks a writ of habeas corpus. At docket 15, Magistrate Judge Duncan, to whom this matter was referred, filed a report in which he recommends that the petition be denied with prejudice as untimely. The time for objections has run and none have been filed.

**II. STANDARD OF REVIEW**

The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.”<sup>1</sup> When reviewing a magistrate judge’s report and recommendation in a case such as this one, the district court conducts *de*

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<sup>1</sup>28 U.S.C. § 636(b)(1).

*novo* review of all conclusions of law,<sup>2</sup> and any findings of fact to which objections have been made.<sup>3</sup> Uncontested findings of fact are reviewed for clear error.<sup>4</sup>

### **III. DISCUSSION**

Having reviewed the file and applied the standard of review articulated above, this court concludes that the magistrate judge has correctly found the facts and applied the law. Dean's petition is untimely. This court adopts the recommended findings and conclusions from the magistrate judge.

### **IV. CONCLUSION**

Based on the findings and conclusions which this court has adopted, the petition is **DENIED** and dismissed with prejudice. The Clerk will please enter judgment accordingly.

DATED this 23rd day of November, 2009.

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/S/  
JOHN W. SEDWICK  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup>*Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989), overruled on other grounds by *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996).

<sup>3</sup>28 U.S.C. § 636(b)(1).

<sup>4</sup>*Taberer v. Armstrong World Industries, Inc.*, 954 F.2d 888, 906 (3d Cir. 1992).